

HOUSE BILL 54
By Turner M

AN ACT to amend Tennessee Code Annotated, Title 39 and Title 47, Chapter 18, relative to identity theft.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-12-203(9), is amended by adding the language "or involving identity theft under §39-14-150," after the language "and its subparts".

SECTION 2. Tennessee Code Annotated, Title 47, Chapter 18, Part 21, is amended by adding the following as a new, appropriately designated section:

47-18-21__.

(a) A person, financial information repository, financial service provider, merchant, corporation, trust, partnership, or unincorporated association possessing information, hereafter referred to as "information provider," relating to an actual or potential violation of this chapter, and who may have entered into a transaction, provided credit, products, goods, or services, accepted payment, or otherwise done business with a person who has used the victim's means of identification, shall, upon written request of the victim, provide copies of all relevant application and transaction information related to the transaction being alleged as a potential or actual violation of this part or §39-14-150. Nothing in this section requires the information provider to disclose information that

it is otherwise prohibited from disclosing by law, except that a law that prohibits disclosing a person's information to third parties shall not be used to deny disclosure of such information to the victim under this section.

(b) Unless the information provider is otherwise willing to verify the victim's identification, the victim shall provide the following as proof of positive identification:

(1) The showing of a government-issued photo identification card or, if providing proof by mail, a copy of a government-issued photo identification card; and

(2) A copy of a filed police report evidencing the victim's claim.

(c) The information provider may require compensation for the reasonable cost of providing the information requested.

(d) No person, financial information repository, financial service provider, merchant, corporation, trust, partnership, or unincorporated association may be held liable for an action taken in good faith to provide information regarding potential or actual violations of this part or §39-14-150 to other financial information repositories, financial service providers, merchants, law enforcement authorities, victims, or any persons alleging to be a victim who complies with subsection (b) of this section which evidences the alleged victim's claim for the purpose of identification and prosecution of violators of this part or §39-14-150, or to assist a victim in recovery of fines, restitution, rehabilitation of the victim's credit, or such other relief as may be appropriate.

(e) A person, financial information repository, financial service provider, merchant, corporation, trust, partnership, or unincorporated association may decline to provide information pursuant to this section when, in the exercise of good faith and reasonable judgment, it believes this section does not require disclosure of the information.

(f) Nothing in this section creates an obligation on the part of a person, financial information repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association to retain or maintain information or records that they are not otherwise required to retain or maintain in the ordinary course of its business.

SECTION 3. Tennessee Code Annotated, Title 47, Chapter 18, Part 10, is amended by adding the following as a new, appropriately designated section:

47-18-10__.

(a) Within thirty (30) days of receipt of proof of the consumer's identification and a copy of a filed police report evidencing the consumer's claim to be a victim of a violation of §39-14-150, a consumer reporting agency shall permanently block reporting any information the consumer identifies on his or her consumer report is a result of a violation of §39-14-150, so that the information cannot be reported, except as provided in subsection (b) of this section. The consumer reporting agency shall promptly notify the furnisher of the information that a police report has been filed, that a block has been requested, and the effective date of the block.

(b) A consumer reporting agency may decline to block or may rescind any block of consumer information if, in the exercise of good faith and reasonable judgment, the consumer reporting agency believes:

(1) The information was blocked due to a misrepresentation of fact by the consumer relevant to the request to block under this section;

(2) The consumer agrees that the blocked information or portions of the blocked information were blocked in error; or

(3) The consumer knowingly obtained possession of goods, services, or monies as a result of the blocked transaction or transactions or the consumer

should have known that he or she obtained possession of goods, services, or monies as a result of the blocked transaction or transactions.

(c) If the block of information is declined or rescinded under this section, the consumer shall be notified promptly in the same manner as consumers are notified of the reinsertion of information pursuant to the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681. The prior presence of the blocked information in the consumer reporting agency's file on the consumer shall not be considered evidence of whether the consumer knew or should have known that he or she obtained possession of any goods, services, or monies.

SECTION 4. This act shall take effect July 1, 2003, the public welfare requiring it.